

RECEIVED
CENTRAL FAX CENTER
FEB 19 2009

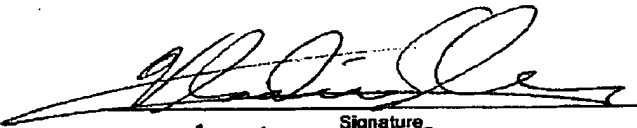
Doc Code: AP.PRE.REQ

PTO/SB/93 (01-09)

Approved for use through 02/28/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) P-5722-US	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]		Application Number 10/627,630	Filed 07/28/2003
on _____		First Named Inventor Moshe Shnaps	
Signature _____		Art Unit 3644	Examiner Dinh, Tien Quang
Typed or printed name _____			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		 Signature Vladimir Sherman Typed or printed name	
<input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)			
<input checked="" type="checkbox"/> attorney or agent of record. Registration number 43,116		Telephone number _____	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		Date 1/12/09	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.8. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

FEB 19 2009

Attorney Docket No.: P-5722-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: SHNAPS, Moshe et al. Examiner: DINH, Tien Quang
Serial No.: 10/627,630 Group Art Unit: 3644
Filed: July 28, 2003
Title: SYSTEM AND METHOD FOR MUNITION IMPACT ASSESSMENT

ARGUMENTS FILED IN SUPPORT OF**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sirs/Madams:

The following arguments are being filed in support of the attached: (1) Notice of Appeal, and (2) Pre-Appeal Brief Request For Review, in response to a Final Office Action dated November 20th, 2008. Applicants respectfully request the panel's intervention for relief from what the Applicants perceive to be an erroneous rejection of the pending claims in the present application. More specifically:

It is Applicants' position that the Examiner has erroneously rejected all the pending claims of the present Application based on either: (1) a misinterpretation of the cited references; and/or (2) improper inferences of teachings within the cited references, which inferred subject matter is simply neither taught nor suggested in the cited prior art. More specifically, the Examiner attempted to support an erroneous 103 rejection by combining multiple unrelated references, without showing any motivation to combine the four references. Moreover, the combined teachings of these four unrelated references do not teach or suggest all the limitations recited in pending independent claim 25. More specifically, independent claim 25 recites "...connecting...to a platform...negotiating access to resources associated with the

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 2

platform...using a receiver associated with the platform..." for receiving a signal from a munition.

Admittedly, the primary reference (Applicant's own patent) does teach a munition impact assessment system. However, it is silent with respect to interconnectivity within a platform and resource allocation/utilization/sharing of a platform resource – namely the platform's receiver. Contrary to the pending claims, the Redford reference teaches a smart munition which transmits data back to the platform over a fiber optic cable – obviously **there is no use of the platform's own radio/resource** in the Redford reference. The Astle reference, in the field of network communication, teaches allocating bandwidth on an ISDN network. Applicant asserts that Astle's teachings have no relation or vague connection to **connecting/interfaces and performing resource allocation of resources (e.g. radio) on a platform**. Not only are the teachings of Astle from a completely different field of endeavor (e.g. data communication networks) from the subject matter of the pending claims (resource allocation and usage of resources such as a radio on a platform), they also fail to teach the fundamental limitation the Examiner alludes that they do.

Whereas the pending independent claim recite:

25. A method for impact assessment comprising:

- connecting an impact assessment unit to a platform electronic warfare system;
- negotiating access to resources associated with the platform electronic warfare system; and
- regulating communication with a smart munition using a receiver associated with the platform electronic warfare system.

As stated above, the primary reference cited by the Examiner is silent with respect to interconnectivity within a platform and resource utilization/sharing of a platform resource, while the Redford reference teaches transmission of data back to the platform over a **fiber optic cable**, rather than **using the platform's own receiver**. As shown, the Redford reference cannot be considered sufficient for the purpose of filling in the gaps in the subject matter taught in the primary reference. In addition, the Examiner's attempt to combine Astle's teachings with the first two references truly puzzles the Applicants and it seems that the Examiner overreached in this case. Such a forced combination of entirely different

APPLICANTS: SHNAPS, Moshe et al.
SERIAL NO.: 10/627,630
FILED: July 28, 2003
Page 3

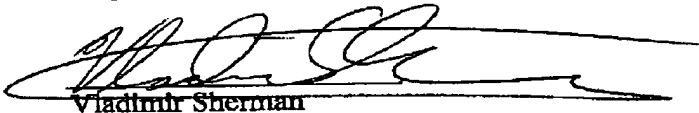
references seems to originate from a misinterpretation of either the cited references and their respective fields, or of the pending Application, or perhaps of both altogether.

Accordingly, it should be clear to one of ordinary skill in the art that the combination of the four cited references fails to teach all the limitations of pending independent claim 25.

In conclusion, Applicants respectfully assert that the Examiner has misinterpreted the cited references and misapplied their teachings, while erroneously attempting to infer limitations recited in independent claim 25 of the pending Application. It is Applicants' assertion that an adequate and correct reading of the cited references in light of the pending Application must lead to the conclusion that the references are insufficient in obviating the claims of the pending Application.

Please charge any fees associated with this paper to deposit account No. 50-3400.

Respectfully submitted,



Vladimir Sherman
Attorney for Applicant(s)
Registration No. 43,116

Dated: February 19, 2009
EMPK & Shiloh, LLP
116 John St, Suite 1201
New York, NY 10038
General Phone: (212) 608-4141
Facsimile: (212) 608-4144